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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,097	05/18/2007	Cliff Aaby	9501US2 (268318US28PCT)	6740

88095 7590 03/21/2011

ARRIS
3871 Lakefield Drive
Suwanee, GA 30024

EXAMINER	
CHOKSHI, PINKAL R	

ART UNIT	PAPER NUMBER
2425	

NOTIFICATION DATE	DELIVERY MODE
03/21/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mirho@fspllc.com

Office Action Summary	Application No.	Applicant(s)	
	10/579,097	AABY ET AL.	
	Examiner	Art Unit	
	Pinkal R. Chokshi	2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 February 2011*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-19* is/are pending in the application.

4a) Of the above claim(s) *1-5 and 11-19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 02/08/2011 have been fully considered but they are not persuasive. Applicant alleges that Krause does not describe a system in which set top boxes communicate a service group ID with a VOD request. Examiner disagrees. Rejection is based on combination of references, where Jerding discloses (¶0056, ¶0061) that the DNCS receives a request from the client, where the request includes information such as a programming title to rent/purchase. However, Jerding does not explicitly teach that the request received from the client also includes a service group ID. Krause discloses (¶0015, ¶0152) that the client device extracts network-ID and transport stream-ID from downstream channel received from the multiplexer, where the client device communicates with the multiplexer using this same information. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Jerding's system by using information, such as network-id and TS id, received by the client device to communicate with the multiplexer as taught by Krause. Such a modification of using information received by the client device to communicate with the multiplexer is a known technique applied to a system of Jerding, which is ready for modification and the results of lowering the traffic at the head-end to allow provisioning of PPV programming and content-on-demand would have only yielded predictable result to one of the ordinary skills in the art.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

See the rejection below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 6 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over US PG Pub 2006/0271973 to Jerding et al (hereafter referenced as Jerding) in view of US PG Pub 2005/0198686 to Krause (hereafter referenced as Krause).

Regarding **claim 6,** "a content on demand system" reads on the video on-demand system (¶0005, ¶0058) disclosed by Jerding and represented in Fig. 2.

As to "system comprising: a content on demand server system comprising non-transitory machine memory and/or circuits comprising logic to compose set top box configuration information into an audio and/or video stream format, and logic to communicate the configuration information to a plurality of service nodes" Jerding discloses (¶0036) that the DNCS insert broadcast file system (BFS) data into an MPEG-2 transport stream. Jerding further discloses (¶0039) that the VOD content server and manager delivers MPEG-2 content to service group modulators as represented in Fig. 2.

As to "a plurality of service nodes each comprising non-transitory machine memory and/or circuits comprising logic to compose a service group identifier into the audio and/or video stream format, and logic to communicate the configuration information and the service group identifier to a plurality of set top boxes" Jerding discloses (¶0039) that the MPEG-2 content is received at the service group of QAM modulators which comprises service group number. Jerding further discloses that DNCS uses the service group number to determine which modulator has access to a particular digital home communication terminal (DHCT), where modulator inserts other data and information into the stream and transmits it to DHCT. However, Jerding does not explicitly teach that the other data and information inserted into the stream can be service group identifier. Krause discloses (abstract, ¶0015, ¶0152 and claim

1) that the edge module that includes multiplexer and modulator, inserts identifiers into transport stream received from the content server and transmits it to the client devices, where client device s uses this identifier to communicate back to the edge module as represented in Fig. 1.

As to "non-transitory machine memory and/or circuits comprising logic to receive from a set top box a request for an audio and/or video stream, the request comprising the service group identifier communicated to the set top box and an identifier of a title of the audio and/or video stream, and to provide the audio and/or video stream to a service node corresponding to the service group identifier" Jerding discloses (¶0039, ¶0056, ¶0061) that the DNCS receives a request from the client, where the request includes information such as a programming title to rent/purchase. Jerding further discloses that the receiver uses association tags to determine the stream, where the resource descriptor identifies the QAM modulator in service group that is transmitting a service, where the MPEG-2 stream is transmitted to a service group which identifies a particular DHCT. However, Jerding does not explicitly teach that the request received from the client also includes a service group ID. Krause discloses (¶0015, ¶0152) that the client device extracts network-ID and transport stream-ID from downstream channel received from the multiplexer, where the client device communicates with the multiplexer using this same information. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Jerding's system by using information, such as network-id

and TS id, received by the client device to communicate with the multiplexer as taught by Krause. Such a modification of using information received by the client device to communicate with the multiplexer is a known technique applied to a system of Jerding, which is ready for modification and the results of lowering the traffic at the head-end to allow provisioning of PPV programming and content-on-demand would have only yielded predictable result to one of the ordinary skills in the art.

Regarding **claim 7,** "the content on demand system wherein the set top box configuration information further comprises: general configuration information, and configuration information for one or more groups of set top boxes" Jerding discloses (¶0050) that the server provides configuration and service data, such as the catalog of titles available for rental by the user, to DHCT as represented in Fig. 3. Jerding further discloses (¶0053) that the configuration information is transmitted to a group of DHCTs as represented in Fig. 4B.

4. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding in view of Krause as applied to claim 6 above, and further in view of US PG Pub 2007/0130583 to Thiagarajan et al (hereafter referenced as Thiagarajan).

Regarding **claim 8,** "the content on demand system wherein the logic to compose set top box configuration information into an audio and/or video stream

format further comprises: logic to compose set top box configuration information expressed in extensible markup language into the audio and/or video stream format" Jerding discloses (¶0039) that the modulators insert information into the steam. However, combination Jerding and Krause does not explicitly teach that configuration information is in extensible markup language. Thiagarajan discloses (¶0071 and ¶0075) that the content structure and other information are implemented as XML file and added with media content. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Jerding and Krause's systems by using XML language for information added to the stream as taught by Thiagarajan in order to provide a basic syntax which can be used to share information between different kinds of devices.

Regarding **claim 9,** "the content on demand system wherein the set top box configuration information further comprises: general configuration information, and configuration information for one or more groups of set top boxes" Jerding discloses (¶0050) that the server provides configuration and service data, such as the catalog of titles available for rental by the user, to DHCT as represented in Fig. 3. Jerding further discloses (¶0053) that the configuration information is transmitted to a group of DHCTs as represented in Fig. 4B.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pinkal R. Chokshi whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal R. Chokshi/
Examiner, Art Unit 2425

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425